LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

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FISCAL IMPACT STATEMENT

LS 7710 **NOTE PREPARED:** Jan 29, 2003
BILL NUMBER: HB 1646 **BILL AMENDED:**

SUBJECT: Enhanced EDGE credits.

FIRST AUTHOR: Rep. Hasler **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: X **GENERAL** **IMPACT:** State & Local
X **DEDICATED**
FEDERAL

Summary of Legislation: The bill allows a county that imposes the County Economic Development Income Tax (CEDIT) to adopt the following ordinances to increase the amount of an Economic Development for a Growing Economy (EDGE) Tax Credit received by an eligible taxpayer in the county by authorizing the Department of State Revenue to retain part of the county's CEDIT revenues to increase the available EDGE credit:

(1) An ordinance to provide CEDIT revenues in an amount equal to a specified percentage of the taxpayer's payroll for the county.
(2) An ordinance to provide CEDIT revenues in an amount equal to the total tax rate for all local income taxes imposed by the county at the time the ordinance is adopted, multiplied by the taxpayer's payroll for all employees subject to the county's local income taxes.
(3) An ordinance authorizing the county to enter into a multicounty agreement in which each nonhost county agrees to provide CEDIT revenues on behalf of its residents who are employees of the taxpayer in an EDGE project in the host county, in an amount equal to the local income taxes imposed by the host county, at the rates in effect at the time the agreement is executed, that would otherwise be withheld by the employer on behalf of those employees if the nonhost taxpayer did not impose one or more local taxes.

The bill also provides that a multicounty agreement may provide CEDIT revenues for current or future EDGE projects in the participating counties. It prohibits a county from rescinding the CEDIT or decreasing the rate of the tax if the county has adopted an ordinance to increase available EDGE credits. It prohibits a county from adopting an ordinance to increase an EDGE credit with county CEDIT revenues if doing so would impair the county's ability pay outstanding bonds or leases payable from CEDIT revenues.

The bill allows a taxpayer who is awarded an EDGE credit to apply to the Indiana Development Finance Authority (IDFA) for a loan in the amount of the total credit amount to be awarded over the term of the credit. It requires the taxpayer to enter into a loan agreement with IDFA before the disbursement of any funds and provides that IDFA acquires a security interest in the project being financed by the loan.

The bill requires the Department of State Revenue to annually refund to the taxpayer the difference between the taxpayer's actual state tax liability for the year and the taxpayer's state liability if the taxpayer had claimed the EDGE credit for that year. It requires the taxpayer to remit the amount of the refund to IDFA as a minimum annual repayment of the loan amount and provides that if the total refunds remitted to IDFA at the end of the loan term, plus any additional payments by the taxpayer, are less than the outstanding balance of the loan, IDFA may require the taxpayer to pay the full amount of the unpaid balance.

Effective Date: July 1, 2003.

Explanation of State Expenditures: *Summary:* For the credits available under the bill, the Department of Commerce and the Department of State Revenue would adopt rules for their implementation. The Department of Revenue will have increased administrative expenses associated with developing tax forms, instructions, and computer programs along with monitoring these new credits.

The Department of Commerce would be required to prescribe a form requiring counties to submit information required by the bill for future incentive agreements under the Regional Economic Development for a Growing Economy Tax Credit. They would also have to monitor the compliance of these agreements.

Under the bill, a taxpayer qualifying for enhanced EDGE credit may apply for a loan from the IDFA and repay the loan with the EDGE tax credit refund. To the extent that the Department of State Revenue would have to refund the difference between the taxpayers state tax liability and the amount refund had the taxpayer claimed the EDGE tax credit, there could be a minimal increase in administrative cost for the Department. The loan program established by IDFA will increase their administrative expenses by an indeterminable amount depending on the applicants.

Explanation of State Revenues:

Explanation of Local Expenditures: *Summary:* Under the bill, an indeterminable amount of local revenues held in an adopting county's County Economic Development Income Tax (CEDIT) special account within the state General Fund would be shifted to cover any tax credits adopted by the county proposed in the bill. Under the bill, a qualifying taxpayer could receive the following tax credits in addition to EDGE credits taken against state tax liability. The following credits would require a county ordinance to be adopted before December 31 of the year preceding the calendar year during which the increase of the EDGE credits awarded to the taxpayer resulting from CEDIT revenue would be first available to a qualifying taxpayer specified in the ordinance:

Enhanced Economic Development for a Growing Economy Tax Credit (EEDGE)- Qualified taxpayers would be able to receive EEDGE credits that would equal a percentage not to exceed 4% (as determined by the county ordinance) times the amount of the taxpayer's actual annual payroll in the county during a year in which the taxpayer is claiming a credit under agreement with the EDGE Board. Qualified taxpayers are taxpayers who have been awarded a state EDGE credit to create or retain jobs within an enterprise zone or airport development zone.

Local Economic Development for a Growing Economy Tax Credit (LEDGE)- Qualified taxpayers would be able to receive LEDGE credits that would equal the total percentage of all Local Option Income Tax (LOIT) rates imposed in the county under current law multiplied by the amount of the taxpayer's actual annual payroll in the county during the year in which the taxpayer is claiming a credit under agreement with the EDGE Board.

Regional Economic Development for a Growing Economy Tax Credit (REDGE)- This credit must be established under ordinance by two or more participating counties under a project agreement or future incentive agreement as defined by the bill. The credit is calculated by the both the Host County and the Nonhost County. The Host County credit is equal to the total percentage of all LOIT rates imposed in the Host County times the amount of the qualifying taxpayer's actual annual payroll in the Host County during the year in which the taxpayer claims a credit under agreement with the EDGE Board. The Nonhost County credit would be calculated by multiplying the total percentage of all LOIT rates imposed in the **Host** County by the amount of the qualifying taxpayer's actual annual payroll in the county for employees who are residents of the Nonhost County and not subject to LOIT in the Host County; due to the Nonhost county's imposition of one or more local option income taxes during a year a qualified taxpayer claims EDGE credits under agreement with the EDGE Board.

Revenue from CEDIT to fund either EEDGE, LEDGE, or REDGE would be calculated and retained by the Department of State Revenue that would otherwise be deposited into the county's CEDIT special account within the state General Fund. The amount of revenue necessary for the EEDGE would equal the greater of the total amount of credits calculated or the actual revenues generated from the participating county's imposition of CEDIT.

EEDGE, LEDGE, or REDGE could be adopted in conjunction with CEDIT, an increase in the CEDIT rate, or coincidently.

A county may not adopt either EEDGE, LEDGE, or REDGE if CEDIT revenues were impaired to the point that sufficient revenue was not available to pay bonds outstanding or leases currently entered. A county adopting an ordinance under the bill would exchange revenues for credits to taxpayers. Currently CEDIT revenues are distributed to counties, cities and towns that have a capital improvement plan for economic development projects, or other special projects outlined in statute.

Reduction of CAGIT, COIT , or CEDIT Rate- Under current law, a county that decreases their CAGIT or COIT rate in a year may not in the same year adopt CEDIT or increase their CEDIT rate. Under the bill, a county would be allowed to adopt CEDIT or increase their CEDIT rate in the same year as a rate reduction if done so in conjunction with the adoption of EEDGE, LEDGE, or REDGE.

Under the bill, a county may not reduce their CEDIT rate if the county has adopted EEDGE, LEDGE, or REDGE.

Eligible taxpayers would not be required to file an application to qualify for the increased credit from the adoption of a county ordinance to establish the above credits.??must apply for loan from IDFA

NOTE- Under the bill, a qualified taxpayer is a person, corporation, partnership, or other entity awarded a state tax liability credit by the Economic Development for a Growing Economy (EDGE) Board for a proposed project to create or retain jobs at a location wholly or partially in an Enterprise Zone (EZ) or an Airport Development Zone (ADZ.)

CEDIT Background: Under current law, a county may impose CEDIT on an individual who resides in the county or who maintains a principal place of employment or business in the county, but resides in another county that does not imposes the County Adjusted Gross Income Tax, the County Option Income Tax, or the CEDIT. CEDIT revenues are collected by the Department of State Revenue and disbursed to adopting counties. A person that proposes a project to create new jobs in Indiana or to retain existing jobs in Indiana may apply to the EDGE Board to enter into an agreement for an EDGE tax credit.

As of May 2002, there were 27 EZs in 21 counties. The combined CY 2003 CEDIT certified distribution of the 11 counties that have established CEDIT and have an EZ was $75.5 M. Under current law, six remaining counties that do not currently impose CEDIT have at least one EZ either wholly or partially within their borders.

EDGE Background: Under current statute, businesses that (1) create new investment and jobs in Indiana or (2) undertake projects to retain existing jobs in Indiana are eligible for EDGE credits. As it applies to investment that creates new jobs, the EDGE Program is designed to provide a revenue-neutral incentive for businesses to create new investment and jobs in Indiana. Such businesses receive credits equal to the individual income taxes withheld for employees filling the newly created positions. Since revenue from these employees would not have been collected in the absence of the new development, the state does not incur a net loss by redistributing the incremental income tax revenue as tax credits to businesses. For job retention projects, no new revenue would be realized since no new jobs would be created. As a result, EDGE credits for job retention are paid from existing revenues, resulting in a net loss to the state equal to the amount of EDGE credits granted to businesses for job retention. However, if a business were to select a more profitable alternative project site and move out of Indiana, there could be an even greater loss of revenue from the reduction in individual (employee's) and corporate taxes.

EDGE credits may be taken against a taxpayer's Adjusted Gross Income Tax, Insurance Premiums Tax, or Financial Institutions Tax liabilities. The duration of the credit may not exceed ten taxable years. In 2001, the EDGE Board approved approximately $81.3 M in new credits (to be used over several years) for 14 projects. The projects are expected to create 5,570 new jobs with an annual payroll of approximately $382.1 M. From 1994 to 2001, EDGE credits have been approved for 86 projects. During those years, approximately $68.3 M in EDGE credits were made available, with the total amount of credits certified so far equal to about $42.5 M. Approximately $29.3 M in EDGE credits were available for approved projects in tax year 2002. The EDGE credit totals through 2002 apply only to EDGE credits for job creation projects.

Explanation of Local Revenues: Total CEDIT revenue would not change, only the distribution of the revenue would change as explained above.

State Agencies Affected: Indiana Development Finance Authority; Department of State Revenue; Department of Commerce, Economic Development for a Growing Economy Board.

Local Agencies Affected: Counties with CEDIT and with borders containing all or partial sections of enterprise or airport development zones.

Information Sources: Department of Commerce; State Budget Agency.

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